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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
087374, 279	01/18/95	CHIO	1477A-2

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EXAMINER
HAILEY, P

ART UNIT
1106

PAPER NUMBER

12

DATE MAILED: 02/04/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/374,279

Applicant(s)

Chung-wai Chiu, et al.

Examiner

Hailey, Lynn

Group Art Unit

1106



☒ Responsive to communication(s) filed on Nov 7, 1996

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-34 is/are pending in the application.

Of the above, claim(s) 1-11 and 18-34 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 12-17 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Applicants' remarks and amendments filed on November 7, 1996, have been carefully considered. Claims 1-34 remain pending in this application; however, claims 1-11 and 18-34 remain withdrawn from consideration, as these claims are directed to non-elected inventions.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

Double Patenting

1. Claims 12-17 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 08/473,688. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the '688 application fail to recite any components completing the balance of the gel pH limitations.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

This rejection is being maintained pending the filing of a Terminal Disclaimer should either of these applications be allowed at a later date, or this application will be abandoned in favor of the '688 application, as stated in Applicants' above-filed response.

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Claim Rejections - 35 USC § 103

2. The rejection of claims 12-17 under 35 U.S.C. 103(a) as being unpatentable over Wurzburg, et al. (U. S. Patent No. 3,977,897) has been **withdrawn** in view of Applicants' amendments to claims 12 and 13 and in view of Applicants' persuasive arguments relating thereto.

Wurzburg, et al. disclose a non-chemically inhibited starch prepared by controlled heating. However, the resulting starch is heated in the presence of salts which inhibit swelling and raise the gelatinization temperature of the starch, as opposed to Applicants' claimed step of heating an anhydrous or substantially anhydrous starch.

Although the 103(a) rejection has been withdrawn, the above double patenting rejection is maintained as it has been stated in the previous Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

All references of record, including those submitted by Applicants and those cited by the Examiner have been carefully considered; however, the

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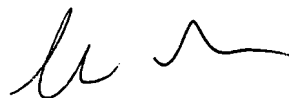
references are not deemed to teach Applicants' claimed steps of dehydrating and heat-treating a non-pregelatinized granular starch to effect thermal inhibition.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynn Hailey whose telephone number is (703) 308-3317. The examiner can normally be reached on Mondays through Thursdays from 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola, can be reached on (703) 305-6118. The fax phone number for this Group is (703) 305-3599 or 305-3600.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Lynn Hailey/plh *plh*
January 31, 1997



GLENN A. CALDAROLA
PRIMARY EXAMINER
GROUP 1100